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Sept. 4, 2006

5 ethical missteps and how to avoid them

BY Brian Robinson

If you were to weigh the reams of regulations written to keep federal employees from behaving improperly with representatives from industry, you wouldn't expect to find any unanswered questions about ethical conduct in government.

Yet here we are again in the middle of what seems like an eternal round of hearings, meetings and debates about ethics and what the government needs to do to make policies more effective.

Most people point to the prosecution of Air Force procurement executive Darleen Druyun as the beginning of the most recent cycle of discussions. Druyun pleaded guilty in 2004 to a charge of conspiracy for negotiating a job with Boeing while she was directing a multibillion-dollar deal for the Air Force to lease tanker aircraft from the company.

A court sentenced her to nine months in jail, several top executives at Boeing lost their jobs, and the congressional hearings, government reviews and investigations into ethics began. Subsequent reports of other ethical lapses, particularly in the wake of hurricanes Katrina and Rita last year, have kept the pot boiling.

Ethical behavior covers a wide range of issues, but here are five that you should know about because they are at the heart of the debate about proper government/ industry relations.

1. The revolving door

Government workers often develop skills and insights that are valuable to private industry, and sometimes they leave government and take highly paid industry jobs.

Whether their move to industry is an ethical lapse depends on the circumstances.

In Druyun's case, getting a job in industry was part of a quid pro quo. Druyun used her influence with the Air Force to steer contracts to Boeing, and Boeing hired Druyun, Druyun's daughter and the daughter's boyfriend. Other cases are less clear-cut.

People with strong specialized skills are drawn to private-sector jobs that require such skills, but how can government regulators be sure those people aren't favoring the companies they feel they have a good shot at working for, even if they do it unconsciously?

"Contracting dollars have almost doubled in the past few years, and along with that, more and more people have been leaving government and taking top jobs with contractors," said Scott Amey, general counsel for the nonprofit Project on Government Oversight.

"That's what has raised a red flag."

2. Organizational conflicts of interest

When contractors or consultants are in a position to advise the government on procurements and contracts that would directly benefit them, they have an organizational conflict of interest.

The primary ethical danger is obvious: If a company is a contractor on a program with the government and recommends that the government buy certain materials or services to implement the program, to avoid an ethical issue, that company can't bid on any contracts for those materials or services.

The Federal Acquisition Regulation has specific and detailed rules and guidance about such matters. But the nature of consolidated businesses that many companies are a part of these days introduces all kinds of potential problems and uncertainties that make contractors feel queasy about doing certain jobs.

“No one wants to do a \$50,000 task order to review a \$300 million program and then find themselves conflicted out on bidding on the program later,” said Chip Mather, co-founder and partner at Acquisition Solutions.

3. Mixing government and private-sector decisions

Contractors are increasingly in positions in which they are making decisions that are inherently governmental, and in many cases, they are overseeing their own work.

Even when overworked government employees appear to be making the calls, they often are leaning so much on the advice their contractors give that, in effect, it’s the contractors who are at the helm.

The problem in those situations is that even when everyone feels they are acting with the best of intentions, the ultimate goals for each person may be different. The government employee is supposed to be acting in the best interests of the taxpayer. The contractor has dollars and deliverables in mind.

Carl DeMaio, founder and president of the Performance Institute and a member of the Acquisition Advisory Panel, has proposed handling this dilemma similar to the way the government handles security clearances. Contractors would receive clearances at certain levels that would allow them to participate in some inherently governmental activities at predefined levels of authority. So far, he said, he has had no takers for the idea.

4. Who pays for dinner?

Contractors might want to give gifts or pay for the meals and entertainment of their government colleagues, but that raises ethical questions. A government employee who accepts a boat from a contractor has obviously crossed the ethical line. But what about the official who lets a contractor pay for a \$20 lunch or bar tab?

Lavish gifts are obvious no-no’s, but smaller gifts raise questions. In the commercial sector, people who do business with one another on a regular basis often go out to dinner together or buy one another drinks. That’s considered normal.

In government circles, however, perception is king. Many government and industry officials prefer to stay away from anything that might send the wrong signal. “There’s nothing inappropriate in people who work closely together going to lunch,” said Larry Allen, executive vice president of the Coalition on Government Procurement. “But today, there’s more attention being paid to even the appearance of something being inappropriate, and that’s led to some ridiculous overreactions. Some people [in government] won’t even take a cup of coffee without paying for it.”

Most people in government know the rules, Allen said. He sees the most need for educating government contractors, particularly those recent players in the government markets that are focused on getting the business and might not be so mindful of ethical requirements.

5. Small items and purchase cards

Federal employees can make small purchases for as much as \$2,500, in most cases, without going through a formal procurement process. But agencies have to use controls to ensure that employees don’t abuse that privilege.

Controls are necessary because agencies have found that some users will abuse purchase cards if they think they can get away with it. Federal employees have used government purchase cards to buy personal items and, in some eye-opening cases, paid for cosmetic surgery, pornography and vehicles. In other cases, employees made legitimate work-related purchases but split the cost into multiple payments so they could use the card rather than go through the procurement process required for larger acquisitions.

Sept. 4, 2006

Small Businesses: This project is too big

BY Matthew Weigelt

The General Services Administration is set to release a request for proposals that would give small businesses a big break. But some small-business owners say the offer to bid as the prime contractor on GSA's infrastructure support project is beyond their means. Several 8(a) business officials said they read GSA's request for information and didn't seriously consider it because their companies do not have the resources to handle a job that big. They also faulted GSA officials and others who helped develop the proposal for not matching its size and scope to the capacity of small businesses.

GSA published an RFI to determine if small businesses listed on the governmentwide acquisition contract known as 8(a) Streamlined Technology Acquisition Resources for Services (STARS) could handle a task order for the information technology infrastructure project. STARS is a small-business set-aside contract for IT-related work.

In the RFI, GSA estimates the cost of the five-year project will be about \$500 million. A centrally managed IT infrastructure would make GSA's operations more efficient by eliminating incompatible systems and improving reliability, agency officials say.

GSA Administrator Lurita Doan said the project is an enormous opportunity for small businesses.

"Rather than looking at it as something that is too big," she said, "the minority business community needs to say, 'Our time has come.'"

Responses to the RFI were due July 13. GSA received 94 responses from STARS businesses and five from Historically Underutilized Business Zone companies, which also received the RFI notice, said Michael Carleton, GSA's chief information officer. The CIO's office has managed GSA's wide-area network and e-mail servers, but GSA's major operating divisions run their own IT services and support operations, according to the RFI. GSA's proposed infrastructure project would end that arrangement by creating a centrally managed infrastructure for IT services and support.

The RFI also states that GSA wants to transform other aspects of the agency, including its contract management activities and functional alignment. GSA provides IT services for about 16,500 agency associates and contractors worldwide.

The STARS contract exists to give small businesses more opportunities to sell their services. Some small-business owners listed as STARS contractors say they have worked

out scenarios in which they could bid on the infrastructure project. But others say bidding on the proposal is out of the question.

Ravi Bhutani, president of Computer Integration and Programming Solutions, said the RFI is too big for his company. "I can play, but I can't play that big," he said.

Bhutani praised GSA officials for selecting STARS to give small businesses an opportunity to bid on the project. But he said he has to consider future reviews of his company's past performance in deciding whether to pursue the contract. Winning such a large contract might jeopardize his performance record, he said.

Other small-business officials suggested that GSA break the proposed task order into smaller pieces. Bruce Chang, director of Efficiency System Technology, said he believes 8(a) companies are qualified to do the job, but he thinks GSA should let small businesses join together to bid on the contract.

Breaking down such large contracts would be the best way to help small businesses, said Richard Rea, president of R. Rea Corp., an 8(a) high-tech services company. Rea said he responded to the RFI because he has the experience to do the work. When he is given a large contracting opportunity, Rea said, his strategy is to find a business partner — maybe another 8(a) company — and go after the contract.

Rea said small companies often can do a better job than the big companies because small businesses would pay closer attention to details. But GSA officials might not see the benefits of dividing large contracts, he said. Doing so might create more work for GSA because it would need to oversee more than one company.

Large companies are typically the prime contractors on GSA's nationwide procurements. They hire subcontractors — often small businesses — to handle the work in regional offices.

"The only difference is we're giving the minority business the opportunity to be that prime," Doan said.

Sept. 4, 2006

Small-business makeover

BY John Moore

The government needs to fix its system of defining and providing contracting opportunities to small businesses, according to advocacy groups, industry analysts and many small businesses.

The current system, which the Small Business Administration has been trying to update for years, allows a sizable chunk of revenue earmarked for small firms to instead go to large companies. Regulatory loopholes, reporting errors and possibly fraud are to blame, experts say.

But some observers add that misplaced money isn't the only issue. They believe SBA's classification system is outmoded.

Although many agree on the diagnosis, there's no consensus on the appropriate cure. Some advocates believe the system is too restrictive, while others argue it is not strict enough.

The challenge of defining small businesses has been around for years, and SBA has revised the system from time to time. In 2000, the agency revamped the classification scheme, replacing Standard Industry Classification codes with the more technology-specific North American Industry Classification System codes.

In May 2004, SBA published a final rule requiring firms with small-business contracts that were transferred from other companies — via acquisition, for example — to recertify their size status. The goal is to prevent companies from continuing to receive small-business money after a larger firm has acquired and absorbed them.

A new round of modification may be afoot. Congress' SBA reauthorization bill includes measures intended to address small-business concerns, and the agency is expected to issue a new rule on size recertification, while industry groups and small businesses continue to suggest additional changes.

Meanwhile, everyone is looking to new SBA Administrator Steven Preston for a sense of direction.

"I think a lot of us are waiting to see what he is going to be able to affect and what his agenda will be," said Guy Timberlake, chief executive officer of the American Small Business Coalition.

Shifting dollars

Small businesses have contended for years that dollars intended for them sometimes go to large firms. Studies released in recent years, some of which SBA conducted, have confirmed those allegations.

Eric Thorson, SBA's inspector general, recently identified widespread flaws in the procurement system that let large businesses reap small-business awards.

He added that studies have shown that agencies continue to count contracts toward their small-business objectives even after the holders have outgrown their size standards or been acquired by large companies.

In addition, contracting officers may inadvertently feed inaccurate data into the Federal Procurement Data System-Next Generation.

Thorson highlighted the problem of such data-entry errors in testimony before the Senate's Small Business and Entrepreneurship Committee in July.

Whatever the cause, Paul Murphy, president of Eagle Eye Publishers, said he has noticed "a lot more dollars associated with larger firms that are coded as small businesses. The issue does seem to have grown."

Eagle Eye's analysis of federal procurement data places some very large businesses in its list of top small-business contractors for fiscal 2005. SBA and vendors are looking into the situation.

Annual recertification is one potential remedy to the problem of businesses holding on to small-business contracts long after they have exceeded the size boundary.

"It would go a long way toward addressing the problem," said David Nadler, a partner at Dickstein Shapiro.

An SBA proposal requiring contractors to certify their size status every year surfaced in 2003, and a final rule is pending. "Hopefully, it will be completed in the near future," an SBA spokeswoman said.

The Senate's SBA reauthorization bill calls for annual recertification, which Nadler cited as evidence of momentum building toward addressing the problem.

However, some small businesses believe annual recertification could prove disruptive. Shiv Krishnan, president and CEO of Indus, said teaming arrangements on multiyear contracts could suffer if small-business partners had to be let go because they exceeded the size standard.

"The annual recertification could throw a whole lot of plans out of kilter," Krishnan said. He said recertification every three or five years would be more manageable. That time frame would give contractors time to adjust for changes to subcontractor teams necessitated by changing size status.

Regardless of the governmentwide policy, some pending multiple-award contracts would require small-business awardees to recertify annually. For example, the General Services Administration's Alliant contracts for small businesses contain that requirement.

Timberlake said government contracting offices should certify a company's size when they award a contract.

Although companies are required to confirm their size status in representations and certifications submitted with proposals, "apparently, some companies slip through," he said.

Award-level certification could become part of the government's process for evaluating proposals.

Timberlake said he isn't aware of any policy proposals regarding award-level certification but said the topic has come up at various meetings he has attended.

Stretching the limits

While experts continue to debate the question of how often small businesses should have to confirm their status, another question is perhaps even more central: How should small businesses be defined in the first place?

With the publication of a proposed rule in 2004, SBA launched an initiative to restructure the size standards, and it has been weighing industry input ever since.

Advocates are pushing the agency in two opposing directions. Earlier this year, the Information Technology Association of America recommended that SBA define small businesses as those with up to 500 employees or \$50 million in annual revenue.

In a letter to SBA, ITAA called the current revenue ceiling of \$23 million unrealistic because companies graduating from the small-business category are hard pressed to compete with much larger firms.

"It's very challenging for a small business to move into that side of the market," said Dennis Kelly Jr., president of TechTeam Government Solutions.

On the other hand, some observers say, the smallest of the small businesses will have difficulty competing in a size category occupied by \$50 million companies.

"There's such a difference between a company doing \$5 million to \$10 million in revenue and one doing \$50 million," Timberlake said. He added that he believes a higher revenue cap would hurt many smaller firms.

Some IT executives have suggested creating tiers within small-business size standards.

Timberlake said SBA could establish a micro-business threshold for companies with fewer than 20 employees and less than \$2 million in revenue, for example.

"Some stratification seems to make sense," Kelly said. "That would allow the government to more equitably administer the small-business dollars that are out there."

Such stratification already exists in the Commerce Department's Commerce IT Solutions NexGen contract, which features three tiers for small businesses.

Following Commerce's example, the Senate's SBA reauthorization bill would give the agency's administrator the authority to create tiers within a given size standard.

The legislation would empower the agency to "establish two or more tiers within an overall small-business size standard cap for the purpose of facilitating the growth and development of small-business concerns."

The latest round of policy revisions has yet to become law, but some executives say just having legislation under discussion is encouraging.

"That shows us that there are enough people focused on the seriousness and importance of this issue to the economy and the need to do something about it," Krishnan said.

Sept. 4, 2006

Good government is priceless

By Steve Kelman

The editorial page of Federal Computer Week has performed a public service with its recent editorial "The purchase card: Priceless" and the accompanying John Klossner cartoon, which shows an entire house built of purchase card success stories next to a tiny pile marked "abuses." Auditors are circling the small pile — and Klossner could have added journalists and politicians — proclaiming, "Oh, this is an outrage," and, "A full investigation must be launched."

I distributed the cartoon to a class of Senior Executive Service members enrolled in an executive education program at Harvard University and e-mailed it to some friends in government.

The editorial and cartoon address one of the most serious problems we face in trying to improve government performance. Any organization has good things it wants to do and ethical or legal constraints, which are the bad things it needs to avoid. The balance of those two is out of whack in government.

The blame rests with the media, some elected officials and a number of self-styled watchdog groups. Those groups specialize in exposing scandals. They are indifferent to ordinary agency performance. They pay little attention when agencies perform well and not much when they fall short, unless they can spin the shortfall as a scandal.

Sometimes, the scandals uncovered are simply untrue as represented. Most often, as was the case with the purchase card abuses, the incidents are true but atypical. Scandals almost always provide an unbalanced portrayal of what goes on in government, but they have an impact.

If an organization gets pilloried for errors but never rewarded for good performance, it will design itself to minimize errors. It will create stifling layers of review, impose excessive internal regulation and be unwilling to give people room to make decisions — all of which degrade an organization's performance.

You cannot give an official power to do right without at the same time giving him power to do wrong. If, above all, the government needs to avoid scandal, then denying civil servants the power to do right would be a price worth paying.

The boss who nags you when you make a mistake and ignores you when you shine is the boss from hell. Such bosses don't produce good performance. Yet that's the kind of agency boss that politicians and the media have become.

For government to perform well, our public discussion must be about substantive performance. Are government organizations achieving progress in fighting cancer, making the roads safer, educating our kids and protecting our citizens? Scandal-mongering sheds no light on such issues.

We should criticize when agencies fall short but also recognize and celebrate their successes. What is perhaps saddest about publicity is that most people who peddle scandal believe they are serving the public interest. If that is true, all of us concerned about government performance must educate others. We need to explain to the well-meaning that their activities make government worse, not better.

Maybe readers of this column can start such an effort. If you agree with the sentiments in this column, circulate it to colleagues, acquaintances and outside-the-Beltway family members. Maybe some of you can send it to your elected representatives.

September 1, 2006

Minority Small Business of the Year

Contact: Tiffani Clements

WASHINGTON – U.S. Small Business Administration Administrator Steven C. Preston today recognized a Florida-based Hispanic-owned defense contractor as Minority Small Business Person of the Year during the 24th National Minority Enterprise Development (MED) Week conference in Washington, D.C.

Mr. Jose A. Diaz, president of DEI Services Corporation of Winter Park, Florida, received top honors for his superior business achievements.

Also recognized by Administrator Preston was William L. Byles Sr., president of Byles Janitorial of Nashville, a Tennessee-based African- American janitorial company. Mr. Byles was the recipient of the 8(a) Graduate of the Year Award.

Frank Ramos, director for the Office of Small Business Programs, Office of the Secretary of Defense for the U.S. Department of Defense, received the Administrator's Leadership Award. Administrator Preston recognized him for his tireless efforts and unwavering commitment on behalf of the nation's minority small business community.

"Today, it is my pleasure to recognize these individuals for their achievements," said SBA Administrator Steven C. Preston. "Jose, William and Frank, each in their own way,

have demonstrated impressive leadership and critical skill in what they do. Collectively, they are contributing to this nation's entrepreneurship, our economy and the small business community and I offer my sincere congratulations."

The award presentation caps off a week-long recognition of minority entrepreneurship. Coinciding with the one year anniversary since the devastation caused by last year's hurricanes, MED Week featured workshops designed to help small businesses gain access to contracting opportunities and take advantage of tax incentives in the Gulf Coast.

Messrs. Diaz and Byles' companies were participants in the SBA's 8(a) Program – a business development program that provides management and technical assistance, and assistance in identifying federal contracting opportunities to socially and economically disadvantaged businesses.

BIOGRAPHICAL INFORMATION ON THE WINNERS

National Minority Small Business Person of the Year Jose A. Diaz, President DEI Services Corporation

DEI is an 8(a)-certified minority business that is rapidly gaining recognition as a premier provider of simulation and training devices to military customers. The company's capabilities encompass a vast range of skills required to successfully develop, deploy, and support state-of-the-art training systems for the modern war fighter. DEI's full-scale products include both operational and maintenance training systems required to support fixed-wing aircraft, rotorcraft and ground combat vehicles. Initially started with credit cards and only two people, DEI now employs 80 employees and generates \$12 to \$15 million in revenues per year.

National 8(a) Graduate of the Year
William L. Byles Sr.
Byles Janitorial

After serving in Operation Desert Storm and being honorably discharged from the U.S. Army, William Byles worked as a full-time truck driver and a part-time janitor at two local cleaning companies. Those experiences inspired him to start his own janitorial company, Byles Janitorial. Byles invested in several cleaning franchises and successfully bid on and won 21 private sector contracts, generating approximately \$22,000 per month in profit, all while maintaining his full-time truck driver position. Later, Byles applied to the SBA's 8(a) Business Development Program, quit his truck driver position and devoted all of his energy to Byles Janitorial and making the most of his 8(a) certification. Today, Byles is a successful graduate of the 8(a) Program.

Administrator's Leadership Award

Frank Ramos, director for the Office of Small Business Programs for the Office of Secretary of Defense of the U.S. Department of Defense

Frank Ramos, a former political appointee under President George H.W. Bush, served as the associate deputy administrator for Management and Administration and the assistant deputy administrator for the office formerly known as the Minority Small Business Certification and Capital Development at the SBA. Appointed by President George W. Bush in 2001, Ramos now serves as the principal small business policy adviser to the Secretary of Defense. During his tenure, Ramos' policies and program initiatives have resulted in record DOD small business acquisitions in FY03 amounting to \$42 billion in prime contract awards and \$32 billion in subcontract awards that supported the military in the war against terrorism. In FY05, DOD awarded \$53.8 billion of its contracts or about 24.6 percent to small businesses.

August 30, 2006

Acquisition panel takes up conflict of interest issues

By Jenny Mandel

Federal officials should consider writing standard contract clauses to set forth vendors' responsibilities related to conflicts of interest, and should enhance training for procurement staff on recognizing and resolving such conflicts, an acquisition advisory panel recommended Tuesday.

The recommendations, part of a larger set of proposals on the role of federal contractors, were provisionally adopted as the last in a long series of suggestions by the panel, which was created under the 2003 Services Acquisition Reform Act.

In debate Tuesday, panelists discussed how contractors function in a blended workforce in which they sit side-by-side with federal employees, sometimes performing very similar work.

Conflict-of-interest rules applying to agency employees are generally familiar, panelists said. But they noted that many firms with government contracts have their own ethics guidelines and that employees on both sides can have misperceptions about how their colleagues are permitted to act.

In light of these differences, panel members suggested that service contractors who are part of a blended workforce be required to attend agencies' annual ethics training.

Panelists said agencies should consider encouraging employees to attend contractors' ethics training as well.

Such cross-training could help avoid situations in which, for example, a contractor might create a potentially compromising situation through a casual offer to buy lunch for a government colleague. Marcia Madsen, panel chairwoman and a lawyer with Mayer, Brown, Rowe & Maw LLP, noted that while in most cases government ethics rules apply only to federal employees, gratuities rules make both offering and accepting a bribe an offense.

In its recommendations on personal conflicts of interest, panelists suggested disclosure, explicit prohibitions and clearly established principles could be used to promote ethical behavior by contractors. They said the Defense Industry Initiative, an organization for defense and security contractors, had developed ethical guidelines that could be used as a model.

The panel also highlighted the potential for organizational conflicts of interest to arise during the development of work statements and requirements, the vendor selection process and in contract administration. Such conflicts could stem from financial interests, an unfair competitive advantage or impaired objectivity.

In addition to the conflict of interest recommendations, the panel has over the past 19 months addressed commercial practices, interagency contracting, performance-based services acquisition, the federal acquisition workforce and small business issues.

A coalition of industry groups sharply criticized many of the recommendations on commercial practices that were adopted last month. But Alan Chvotkin, senior vice president of the Professional Services Council, an Arlington, Va.-based industry association included in the coalition, said its members had met with Madsen since then and resolved some of the differences. He said the wording of some of the recommendations was unclear, and that the coalition continues to oppose a change to the definition of commercial services that would complicate pricing for services not widely available in the marketplace.

After concluding debate on the final set of recommendations, Madsen said the group would probably convene for a final public meeting in September to iron out any disparities among the provisional recommendations before issuing them as a draft report in early October.

Aug. 24, 2006

Defense gets nod to buy from GSA regional shops

By David Perera

The Defense Department will not restrict the Pentagon from doing business with the General Services Administration's assisted services regional contracting shops, according to a draft inspector general report.

A negative ruling by the Pentagon inspector general on any of GSA's 11 regional customer service centers would have greatly restricted the Defense Department's ability to do business with blackballed regions. Pentagon orders constitute more than 83 percent of the \$3.6 billion in business the GSA regions conducted in fiscal 2005, according to the audit.

Any restriction would have been a blow to GSA, which already is reeling from sharply declining business. A GSA spokeswoman contacted on Wednesday did not respond to requests for comment.

Still, Defense auditors said they found numerous contracting irregularities. Four GSA regions -- Northeast and the Caribbean, Great Lakes, Greater Southwest and

Northwest/Artic -- were not fully compliant with Defense regulations and may have committed violations of the Antideficiency Act, the law that prohibits agencies from spending money they don't have.

GSA's Federal Acquisition Service Commissioner Jim Williams countered in an Aug. 17 letter that most of those potential violations are really matters of differing legal interpretations of appropriations law.

GSA did, however, commit one Antideficiency Act violation, in connection with an information technology purchase by the Defense Department's Joint Information Operations Center, Williams said. The violation was "aberrant and not reflective" of GSA, he said.

Many of the contracting deficiencies mentioned in the report were committed by Defense officials. This means the real importance of the audit might lie in whether Pentagon officials use it to justify further cutbacks in interagency contracting, some observers said. The report noted that the Pentagon "is providing GSA between \$60 million to \$150 million in surcharges that might have been put to better use in DoD if using a DoD contracting officer had been a viable option instead of GSA."

The Pentagon's "sense is that if you do all [acquisition] inside DoD, they'll have more control," said Bob Woods, a former GSA Federal Technology Service commissioner, now president of Topside Consulting Group. "This is policy by audit."

The report likely will have the effect of making Defense officials "increasingly resistant to use GSA, and not just assisted services either," said Larry Allen, executive vice president of the Washington-based Coalition for Government Procurement, a contractor trade association. Though innocent of irregularities, GSA's schedules program may suffer as a result, he added.

The best outcome would be for the Pentagon to step up its procurement oversight and improve its management rather than attempt to develop new in-house acquisition capabilities, Allen said. "Unfortunately, I think there's going to be a rush to decision-making that says the latter, not the former," he added. There have long been people within the Defense Department and on Capitol Hill who favor keeping acquisition inside the department.

However, a Senate staffer who spoke on condition of anonymity said it's likely that the Defense Department's "preference is to get other agencies to clear up their act, because I'm not sure they have a whole lot of enthusiasm for going on a massive hiring program." Defense procurement offices are already short staffed, the staffer said.

The main sticking point hindering improved relations between the Pentagon and GSA, the staffer said, lies in their differing interpretations of the law that governs when the clock starts counting down the time remaining on contracts for services purchased on an annual basis -- so-called severable services contracts.

GSA's position is that once payment for severable services is accepted, the requesting agency can record the money as officially obligated even if the money remains unspent into the following fiscal year. The Defense Department argues that the money counts as obligated only once it is actually spent on a contract.

"The question is can you essentially extend the money by shifting it over to another agency on the last day of the fiscal year," the Senate staffer said. "GSA is now saying you can; DoD is saying you can't. That's a pretty significant difference."

August 29, 2006

SBA's New Leader Faces Critics

By Robert Manor

CHICAGO - The new head of the Small Business Administration, a former Chicago-area executive at a decidedly big business, says his agency must do a better job of helping minority, rural and inner-city small companies grow.

"That's a huge social opportunity for us," said Steven Preston, a Hinsdale resident preparing to move to his new job in Washington. He became the SBA's administrator in June. Preston is taking on a small agency with vocal critics, who claim that too many federal contracts are going to giant businesses when they should be allocated to small companies. Meanwhile, some minorities believe they are shortchanged when it comes to winning government work.

The SBA, best known as the financier of last resort, guarantees loans to small businesses that could otherwise not obtain credit. Last year, for example, the SBA backed about 100,000 loans worth \$19 billion. The default rate on loans ranges up to 7 percent in any given year. Because of fees it charges, the agency breaks even. People familiar with the SBA say its more important role is advocating the interests of small businesses to other federal agencies in everything from regulation to making contracts available.

Harry C. Alford, president of the National Black Chamber of Commerce, said the SBA needs to be more aggressive in pushing other government agencies to offer business to small companies, especially those that are minority-owned. "African-Americans account for 2 or 3 percent of SBA loans and we are 13 percent of the population," Alford said. "We are looking at his numbers now," Preston said. He said SBA data show that blacks account for about 7 percent of loans, a figure still substantially lower than their percentage of the population. "They make up 13 percent of the population," Preston said. "They do not make up 13 percent of businesses."

Preston has been meeting with black and other minority organizations to see what the SBA can do to better serve small businesses in depressed neighborhoods. He said he is also working to ensure that rural small businesses are served. Preston said he plans to work on a chronic SBA problem. A federally maintained database of contracts awarded to small businesses, notorious for its inaccuracy, keeps turning up the names of transnational companies that are decidedly not small.

Lloyd Chapman, president of The American Small Business League, said, "Democrats and Republicans alike need to realize that when the president allows billions of dollars in small-business awards to be diverted to large corporations, it hurts every American no

matter what their political affiliation." A Korean War-era law says 23 percent of government contract expenditures should go to small businesses.

Preston said the problem is more with the way contract data are recorded than it is big companies getting work meant for small businesses. He said that a small business that wins a contract and then grows big remains listed as a small business until the contract expires. In other instances, he said, a small company with a government contract is acquired by a large one but the acquiring company is listed as a small business in federal records as long as the contract runs.

Some people question whether the SBA should even exist. "The SBA is kind of a ridiculous agency," said Chris Edwards, director of tax policy for the libertarian Cato Institute. "Its basic mission is incoherent. "If they make loans to healthy businesses that are prosperous, that makes no sense because they could go to banks to get money." On the other hand, if the SBA funds marginal businesses that no other lender would touch, Edwards said, it is apt to misallocate money that could be put to better use elsewhere.

Preston said that argument is weak. There are some viable businesses that cannot get conventional bank loans, but do need money to expand. Nor is the government wasting the public's money, he said. "The government does not lose money on these loans," he said. "We break even."

Preston, 46, would appear to be in for the long run. A triathlete, he spent time last summer bicycling through the French Pyrenees.

That endurance may serve him well, because he cannot count on his own experience as a small businessman. He doesn't have any.

He was formerly executive vice president of ServiceMaster Co., which earned \$198.9 million on sales of \$3.24 billion last year. Before that, he was an investment banker with Lehman Brothers. Preston said his personal lack of experience in small business is no barrier to doing a good job. "When I was a banker I took a lot of small businesses public," Preston said. "I have never been a small-business owner, but I've been around small-business owners all my life."

August 29, 2006

Small Company, Big Brand

Jeffrey Gangemi

On Aug. 12, a group of 12 fans of the Web browser Mozilla Firefox, which competes with Microsoft's (MSFT) Internet Explorer, used two-by-fours and rope to hollow out a 30,000-square-foot impression of the brand's logo in an oat field outside of Salem, Ore. The handmade crop circle wasn't the first time Mozilla diehards had displayed their

support for the brand publicly. In December, 2004, a group raised enough cash to buy a two-page ad in The New York Times to thank those who had contributed to the launch of the beloved browser. But neither of these stunts was orchestrated by a PR firm or in-house marketing guru. What's more, the more than 10,000 programmers who are constantly tweaking the open-source coding and performing quality controls on the Firefox browser are volunteers, not employees. And the 60,000 Web sites that have linked to Mozilla's site to encourage people to download the browser receive no compensation.

It's this growing community that has allowed Mozilla, a small company with about 60 full-time employees, to compete with juggernauts like Microsoft. "One of our distinguishing characteristics is that we're a small organization competing on a large playing field," says Asa Dotzler, community coordinator for Mozilla. He says the company owes its success to its users and their "passion for Firefox." The branding success of companies like Mozilla, Pom Wonderful, Craigslist, and others show that you don't have to be big for your brand to be big. By building a dedicated group of users or customers, small companies can create formidable brand power.

BUSINESS FIRST.

How do they do it? When it comes to brand building, many of the same rules apply across industries. Chief among them is a continual dialogue with customers. "We're an online bulletin board or classifieds site, but largely speaking, what you see is a summation of what users have asked for over the years," says Jim Buckmaster, CEO of Craigslist, which boasts about 5 billion page views per month. The other key to building a popular brand is having a product or service that defines its category. McIlhenny's Tabasco Sauce is a prime example. In 1868, when it launched the product, hot sauce wasn't a brand category -- Tabasco created it. Now it's a booming business with more than 300 manufacturers. "What makes these companies great is that there's a business there first, before there's a brand," says Martyn Tipping, president of brand consultancy Tipping Sprung, based in New York.

History shows that a great idea never made it without good management and skilled handling. "There are lots of good ideas that are poorly executed. It's more than a good idea; it's the execution of the brand you represent," says Scott Griffith, president and CEO of car-sharing service Zipcar. After opening its service in Boston, New York, and Washington, Griffith's company took two years to document and distill its "operating model and brand recipe" before expanding into Toronto, San Francisco, and Chicago this year.

KEY BUILDING BLOCKS.

Even if a company's product or service isn't groundbreaking in itself, it's important to find a means of differentiation. Take Travelzoo (TZOO). The company has pushed the services of sites like Travelocity, Orbitz, and Expedia a step further by testing, then compiling the best travel deals from more than 500 advertisers. Users click through to

the provider's site when they spot a deal they like. Travelzoo, along with its newsletters, has 10 million subscribers, largely due to its quality control. The site's "About Travelzoo" page states: "Your confidence in the credibility of what we're offering you is the heart and soul of our business."

Patrick Hanlon, CEO of branding company Thinktopia and author of *Primal Branding*, says he's struck by the consistency in the model of what it takes to build a brand. In his book, Hanlon lays out seven assets, or "pieces of primal code," that go into making a great brand: a creation story, creed, icon, rituals, sacred words, dealing with nonbelievers, and a good leader. Never underestimate the power of story, says Hanlon. Take Pom Wonderful: Its Web site includes an entire history of the company and the pomegranate itself. "All brands are a narrative; the story is what draws us in," says Hanlon. Once customers are in, it's often a company's value system, or creed, that keeps them coming back. Zipcar has been careful to partner only with companies that jibe with its own brand. So far, Zipcar has successfully cross-promoted with XM Satellite Radio (XMSR), Whole Foods Market (WFMI), and Ikea, but "couldn't imagine putting a Hyundai or a GM (GM) into our fleet, because they don't fit the values of our urban environment," says Griffith. He says the trust the company builds through disciplined partnerships is a big reason why one-third of all new Zipcar business is driven directly through word of mouth.

BIGGER THINGS TO COME.

Heavy.com is another small company that holds its own in street cred. Its viral videos and clips aimed at 18- to 34-year-old guys spread quickly among the 12.5 million users who visit the site each month. For Heavy.com's staff, the most difficult task isn't trying to invent the next big thing but rather allowing users to communicate what they'd like the site to be. The result is continual reinvention. One of the latest additions is the "massive mating game," where users watch videos of women, then answer trivia questions about them. The grand prize? A "mac-daddy date in Vegas with one of the girls."

Aside from having great brands, all of these small companies have one thing in common: They probably won't be small for long. Growth among them has been prodigious. Zipcar, for instance, expects to double last year's revenues, going from \$15 million to \$30 million. And Heavy.com went from more than \$5 million in revenue last year to an estimated \$15 million to \$20 million this year. In the end, successful companies find what their particular customers want and the most creative ways to give it to them. "Imitation is the sincerest form of boredom -- it's easy to rip off someone else's great idea," says Hanlon. "The main thing to be is to be different."

August 23, 2006

DoD Implementation Plan for Electronic Subcontract Reporting System (eSRS)

Please click link below or pdf direct link... [2006-1604-DPAP_Signed_Doc.pdf...](#)

<https://acc.dau.mil/CommunityBrowser.aspx?id=111342>

August 18, 2006

OMB to rate agencies on efforts to break up large contracts

By Jenny Mandel

The Office of Management and Budget is taking steps to address the concerns of small businesses by developing a score card to focus agency attention on "unbundling" large contracts and designating a senior official to address small business issues, a senior official told lawmakers recently.

In an Aug. 3 letter to Sen. Olympia Snowe, R-Maine, chairwoman of the Senate Small Business and Entrepreneurship Committee, OMB Deputy Director for Management Clay Johnson laid out steps that the Office of Federal Procurement Policy will take to improve opportunities for small businesses to obtain federal contracts.

"I assure you the [OMB] remains firmly committed to providing maximum opportunities for small business in federal contracting," Johnson wrote, highlighting a March 2002 policy statement by President Bush that "wherever possible, we're going to insist that we break down large federal contracts so that small business owners have got a fair shot at federal contracting."

Johnson said OFPP would be directed to develop a score card, in consultation with relevant agencies and congressional committees, to hold agencies accountable for achieving small business procurement goals and to satisfy an initiative announced by the president in 2002 to reduce contract bundling. That practice, in which agencies roll several small contracts into one mega-contract, is a top complaint of small businesses because it makes it harder for them to qualify or compete for work with the federal government.

OMB also will consult with relevant agencies and committees on the possibility of adding the anti-bundling initiative to the quarterly President's Management Agenda score card, Johnson said. The procurement policy office will designate a senior official to take the lead on small business issues and to "aggressively explore" ways to increase staffing at the Small Business Administration's procurement center, he said.

Johnson said he would ask OFPP to prioritize efforts to develop rule changes that could guard against misrepresentation, miscoding and manipulation of the system through which businesses certify themselves as small for preferences in government contracting. That system has been widely criticized for counting deals with huge, international corporations toward small business procurement goals.

Johnson said he would report to Snowe by Nov. 15 on actions OMB had taken on these issues.

Jake Ward, Snowe's press secretary, said it was his understanding the committee had received the letter, though with key staffers away for the August recess he was unable to comment Friday afternoon on its contents. An OMB official said the letter was issued in response to concerns raised by Snowe during a confirmation hearing for Paul Denett, who the Senate approved as OFPP administrator earlier this month.

"It's substantive, but it's a letter, and it doesn't really deliver results until they follow through," said Angela Styles, former head of OFPP and now a government contracts attorney at the Washington law firm Miller and Chevalier.

Calling the letter "a good first step," she said "none of the things listed are minor," and real plans and actions would be required to accomplish them.

Styles added that the idea of adding contract bundling to the management score card was floated when the administration first looked at the problem, but political will at that time was lacking. "The most important piece of all of it is evidence of leadership at the top -- evidence that they're going to push back with agencies to make it happen," Styles said.

She said the easiest way to solve problems associated with small business size status would be to require companies to recertify their size annually, or whenever major business decisions like mergers or acquisitions affect it. "The rule changes are controversial. How long do you let a small business that became large be counted as small? Believe it or not, a lot of people believe you should be allowed to continue to count that as small," she said.

Lloyd Chapman, president of the American Small Business League, said the administration should be judged by its actions, not by its announcements. "I know that the Bush administration has no good intentions for small businesses," he said.

August 14, 2006

Federal Prison Industries not small for services

By Jenny Mandel

In a decision issued last year but only publicized recently, the Small Business Administration ruled that Federal Prison Industries cannot win service contracts set aside for small businesses.

The decision, reached in February 2005, came from the Office of Government Contracting of an SBA area office covering several states in the mid-Atlantic. It resolved protests by two companies alleging that a contract for electronics recycling and disposal was improperly awarded to FPI, also known as UNICOR.

FPI is a congressionally established corporation that employs prison inmates and receives certain preferences in federal procurements.

The protests lodged by Global Investment Recovery Inc. and Creative Recycling Solutions Inc. alleged FPI was ineligible to win the work because it was neither a for-profit business nor classified as small under the rules of the Federal Acquisition Regulation.

In the decision, SBA officials rejected FPI's argument that the 2004 Consolidated Appropriations Act and the FAR included special provisions allowing FPI to compete for small business set-aside contracts, concluding the prison group was not eligible when the set-aside is a service contract.

"The way that the decision was written was fairly broad," said Amy Laderberg O'Sullivan, a lawyer with the government contracts practice group at Crowell & Moring, and lead counsel on the case for Global Investment Recovery. "It is not limited to this procurement, and it has significant implications for FPI's ability to participate in small business set-asides in general," she said.

The decision received little attention when it was made, in part because protests at SBA's area office level are not publicly announced or made widely available. SBA spokesman Michael Stamler confirmed Monday that area office decisions are not publicly posted or made the subject of press releases, and are routinely distributed only to the companies and contracting officers involved in the case. Appeals of those decisions can be made through SBA's Office of Hearings and Appeals and those rulings are posted in an online database, he said.

A spokesman for FPI said the company did not appeal the decision, and it recently surfaced as the result of a query to a procurement community listserve.

Chris Jahn, president of the Contract Services Association, an industry group, said he was aware of the decision when it came out but was unsure of the effect it had on small businesses competing with FPI for work.

He said the prison group had Defense Department contracts last year worth more than \$460 million, noting, "To consider them somehow a small business just doesn't pass the straight face test."

Jahn said his group supports measures presented in both the House and Senate that would require agencies to conduct market research before awarding product or service contracts to FPI, and allow agencies to bypass the prison group if they did not offer a comparable product or service. Under current provisions, FPI performs the comparability assessment. He said a similar measure passed in the House in 2003, but did not reach the Senate floor for debate.

Aug. 9, 2006

Leave contracting alone, industry coalition says

BY Michael Hardy

A group of trade associations issued today a joint statement condemning a federal panel's recommendations for changes to procurement rules. The trade groups believe the Acquisition Advisory Panel's suggestions would erase 10 years of procurement reforms. The Services Acquisition Reform Act of 2003 created the panel, which is often called the SARA Panel. Its recommendations concern the purchase of commercial services. But the trade groups say the proposed changes "would add time and expense to government agencies' efforts to buy private-sector solutions and support, and would make the procurement process less flexible."

The result of the proposals would be a procurement process that is less efficient, effective and fair, according to the joint statement from the trade groups.

The groups submitted their statement to the panel. The coalition includes the Information Technology Association of America, the Professional Services Council, the Contract Services Association, the Aerospace Industries Association, the National Defense Industrial Association, and the Government Electronics and Information Technology Association.

Aug. 7, 2006

Vendors defend DHS contracting practices

BY David Hubler

Defense contractors, information technology providers and industry observers say they have issues with a new House Government Reform Committee report that criticizes the Homeland Security Department's procurement methods and contracting practices as being rife with "significant overcharges, wasteful spending and mismanagement."

Investigators, including the Government Accountability Office, identified 32 DHS contracts that had "major problems in administration or performance." The department awarded the contracts in the past five years, and they are worth \$34.3 billion. But industry officials say the report is overkill.

Bob Guerra, a partner at Guerra Kiviat, said DHS is doing much better than it did when it became operational in March 2003. The department is improving its procurement processes and has a greater level of discipline in the process, Guerra said. "It's just taken time to get the organization together."

Scot Edwards, chief marketing officer at GTSI, said that because DHS has combined 22 agencies, it has a broad, overarching influence. "The more they get a handle on things,

the better off we'll all be," Edwards said, adding that industry tries to see past the problems outlined in the DHS report.

Contractors may be turning a blind eye to the agency's criticism because DHS has increased spending 189 percent since its creation in response to the 2001 terrorist attacks. In fiscal 2003, DHS awarded 14,000 contracts worth \$3.5 billion, according to the report. By fiscal 2005, the department had awarded 63,000 contracts worth \$10 billion. That increase was 11 times faster than the remainder of federal discretionary spending, the report states.

"It's impossible to do everything perfect the first time," said Mark Zelinger, president and founder of Zelinger Associates, a business development and federal marketing services company. When you quickly put together an agency as diverse and as large as DHS, "you're going to get some mistakes," he said.

Zelinger added that DHS has done a remarkably good job in its short existence, despite some evident problems.

Rep. Tom Davis (R-Va.), the committee's chairman, said acquisition dysfunction best describes DHS' procurement processes, and ranking member Rep. Henry Waxman (D-Calif.) said DHS has a pattern of reckless spending.

But Phil Kiviat, a partner at Guerra Kiviat, said the DHS criticism exemplifies the common adversarial relationship between agencies and congressional committees. Such inquiries are common, he added. "If you make progress, it's not as good as being finished," he said. "Therefore, it's [considered] a deficiency."

At a July 27 hearing called by Davis and Waxman, Michael Sullivan, director of acquisition and sourcing management at GAO, said DHS' problem is a lack of internal controls and oversight of its procurement processes.

Elaine Duke, chief procurement officer at DHS, cited several steps DHS is taking to fix its procurement problems, including a centralized recruiting system for hiring contracting officers, a request for funding in the fiscal 2007 budget to hire 200 additional procurement officials, and new oversight and management directives.

DHS operates in a rapid acquisition environment, Duke added. "It must prioritize acquisition planning, beyond that generally expected of an agency that does not have emergency response as a primary responsibility, to ensure that decisions are made properly and timely."

Waxman told reporters after the session that the committee would examine the testimony and possibly call more hearings in the fall to examine specific contracts. He did not say whether the committee would call any contractors.

Aug. 7, 2006

Scientific and Engineering Workstation Procurement

BY Matthew Weigelt

The General Services Administration would take over a NASA governmentwide acquisition contract program that specializes in powerful information technology for science and engineering applications, if GSA Administrator Lurita Doan gets her wish. However, some doubt that the agency could effectively manage the Scientific and Engineering Workstation Procurement (SEWP) program, a highly specialized multiple-award contract.

Because of GSA's internal problems, some critics say the agency lacks the credibility to convince customers that it is capable of handling SEWP. But Doan dismissed the criticism and explained her rationale for wanting to move the contract.

"GSA is the premier location for procurement and what we want to do is allow agencies to focus on their core mission," she said. "NASA's core mission is not to provide IT products and services to the government and the public." Handling the contract distracts NASA's resources from the agency's primary purpose, Doan said.

Joanne Woytek, NASA's SEWP program manager, said the GWAC is not a distraction because it is a self-contained program that generates revenue to pay for itself. GSA asked NASA to manage the contract 14 years ago, she added.

GSA schedule contracts and SEWP contracts reach separate niche markets, said Judy Harvell, Unisys' SEWP III program manager. She said she believes that moving SEWP to GSA would bring no tangible benefits and might turn the specialized contract into a more typical GSA catalog.

SEWP and similar programs focus on particular mission areas for the specific agencies, said Robert Guerra, a partner at consulting firm Guerra Kiviat. As such, they demand a specific competency in acquisitions tailored to those agencies.

"When it comes to commodity-fulfillment contracts, GSA has to have the lead," Guerra said. "When it comes to agency mission-sensitive contracts, though, I'd leave those to the agency."

Some analysts said GSA should fix its internal problems before its leaders think about expansion.

"Let's get your house in order before you start new construction," said Mark Amtower, a partner at consulting firm Amtower and Co. "GSA's ability to run a large procurement is, at best, questionable."

"GSA should concentrate on getting its own programs in better shape rather than trying to take over other programs," said Steve Kelman, Harvard University professor and former Office of Federal Procurement Policy administrator during the Clinton administration. Stan Soloway, president of the Professional Services Council, said Doan's proposal is reasonable, but NASA is competent in contracting and must make the decision.

The best course is unclear, Soloway said. If NASA did not want to handle the GWAC, GSA would be the logical home for it, he said.

A similar situation arose in 2004 when the Transportation Department relinquished its Information Technology Omnibus Procurement contract to GSA.

Doan's ambition proves that SEWP is a success, said Will Henderson, chief executive officer of Sword and Shield Enterprise Security, one of SEWP's contractors.

That success would make it a boon for GSA, Soloway said. "SEWP would be a really — I'm thinking of the right word for this — a positive for the agency," he said.

A GSA spokesman said Doan is particularly concerned about the paucity of good contracting officers in the federal government and the importance of not spreading them too thin.

Others, however, say that competition is too important to lose. "I'm a big GSA fan, but I'm not a fan of removing GSA's competition," Kelman said. "Just as GSA provides good competition to agency buying shops, the well-run SEWP program provides good competition to GSA."

GSA falters where NASA excels in customer relationships, said Hope Lane, director of GSA schedule services at Aronson and Co. GSA has a lot of customer relationships to mend. "I don't know if you can pursue the revenue before the relationships," Lane said. Doan said she had not spoken with NASA officials yet, because SEWP is currently requesting authority from the Office of Management and Budget for SEWP IV, a planned new version of the contract. She plans to call NASA soon about the deal but gave no specific time.

"It will be interesting to see if they take the call," she said.

Does she believe her effort will succeed? "I never say never," she said.

NASA envisions its information technology governmentwide acquisition contract, the Scientific and Engineering Workstation Procurement, as "the premier customer-focused contract vehicle for federal government purchase of IT products," according to a statement on the SEWP Web site.

The contract's purpose, according to the statement, is efficient and effective government IT procurement, customer services, vendor relationships, and IT research and monitoring. Products that agencies can purchase through SEWP include Unix-, Linux- and Microsoft Windows-based workstations and servers, plus peripherals, network equipment, storage devices, security tools and software. The contract program offers more than 400,000 products.

NASA is planning SEWP IV, which its officials anticipate will be popular. In July, the Department of Veterans Affairs chose to steer its customers to SEWP IV rather than issue a new version of its Procurement of Computer Hardware and Software contracts. PCHS-2 will expire in April 2007.

Some SEWP-III contracts, originally set to expire in July, have been extended to January 2007. Other SEWP-III contracts expire in September 2007.

Aug. 3, 2006

Senate wants annual small-business certifications

BY Michael Hardy

Companies that get federal government work under small-business programs would need to annually recertify that they still qualify for them, according to legislation introduced in the Senate Aug. 2.

The Small Business Reauthorization and Improvements Act of 2006 would amend the Small Business Act to require every business that qualifies as a small business to certify its size and small-business status each year.

Recent studies have angered small-business advocates because they show that larger companies are getting contracts intended for small firms, sometimes because the companies outgrow the small-business definitions during the contract period. In other cases, a larger firm acquires a small business and gets the benefits of the contracts the small firm held.

The authorization bill also allows the Small Business Administration to establish two or more tiers within an overall small-business size standard cap. The measure is similar to one the Commerce Department used for the Commerce Information Technology Solutions contract, which allowed the smallest of the small businesses to compete for set-aside task orders without going head-to-head with larger small firms.

July 31, 2006

Major companies continue to win big contracts set aside for small business

BY John Moore

As Congress works to reauthorize the Small Business Administration's financing and economic development programs, some critics say big business is winning contracting dollars intended for small firms.

The issue has been around for years, and industry and government policy-makers have debated potential remedies without results. A recent SBA news release said small businesses won a record \$79.6 billion in contracts in fiscal 2005. The media and small-business advocacy groups greeted the announcement with sharp criticism.

"Flaws in the procurement process have allowed large companies to receive small-business awards and agencies to receive small-business credit for contracts performed by large businesses," said Eric Thorson, SBA's inspector general, in testimony this month at a Senate Small Business and Entrepreneurship Committee hearing. "We believe the problem to be widespread."

Paul Murphy, president of Eagle Eye Publishers, said his analysis of government procurement data lists multibillion-dollar companies, such as Science Applications International Corp., Lockheed Martin and Northrop Grumman, among the top 100 small-business contractors in fiscal 2005.

“Regulatory loopholes are allowing large companies to perform small-business contracts,” Thorson told lawmakers at the hearing. “Studies have found that agencies count toward small-business goals contracts performed by companies that have either been acquired by large firms or outgrown small-business size standards.”

“The acquisitions of small companies by large companies may well be a factor in the reports of large companies receiving small-business awards,” said Northrop Grumman spokesman Gus Gilmert. “We are actively engaged with SBA to identify and correct any of our records that need to be updated. Once that is complete, we should have a better understanding of any problems with the existing process.”

The Commerce Department’s Commerce Information Technology Solutions Next Generation (COMMITTS NexGen) contract vehicle, which is open only to small businesses, is a case in point. A Government Accountability Office briefing in June noted that “many of the 55 COMMITTS NexGen contractors have grown significantly or have been acquired by larger businesses and may no longer meet small-business size standards.”

Despite questions about the data, SBA has touted the fiscal 2005 numbers as evidence of success in its government contracting programs.

“The most important thing is [that] the dollars have gone from \$43 billion in [fiscal 1999] to almost \$80 billion,” said Karen Hontz, SBA’s associate administrator for government contracting.

“That’s the big statistic. The increase to small business dollar-wise is a larger percentage than the increase in the overall contracting budget. That’s the good news.”

Root causes

Murphy said one reason small-business dollars go to large companies is no one has decided whether a small-business designation should follow the contract vehicle or follow the company. Small companies often merge with larger firms.

Another problem is that on some multiple-award contracts, agencies can obtain small-business credit for using a company classified as small even if it fails to meet all applicable size standards. Those explanations haven’t calmed SBA’s critics. “People are misrepresenting [their companies] as small businesses,” said Lloyd Chapman, president of the American Small Business League. “People are going to manipulate the system for their benefit,” said Guy Timberlake, chief executive officer of the American Small Business Coalition, which helps small firms do business with the government and prime contractors.

Timberlake said large businesses may claim a North American Industry Classification System code for which they don’t qualify. In other cases, “large businesses get behind small companies that are nothing more than fronts that don’t have the capability to do the work,” he added. Thorson said that in the past five years SBA has opened 69 cases involving government contracting fraud, but it has yet to obtain a criminal prosecution. He blamed prosecutors’ reluctance to accept cases for which it is difficult to demonstrate a financial loss to the government.

One potential remedy is annual recertification of the size of a small business. SBA published a proposed rule requiring recertification in 2003 but has not released a final rule. Annual recertification “would provide a significant control over the accuracy and integrity of small-business contracting,” Thorson said.

July 31, 2006

DLA idea has opened path into federal marketplace

BY David Hubler

An idea that took root at the Defense Logistics Agency (DLA) in the mid-1980s to expand Defense Department contracting opportunities for small businesses has blossomed into a nationwide network known as the Procurement Technical Assistance Program.

The Virginia PTAP at the George Mason University Enterprise Center in Fairfax, Va., advises young companies that have innovative technologies to sell to the government. It also operates 29 small-business centers throughout the state and larger regional centers in Charlottesville and Hampton Roads.

“Think of us as a one-stop shop on how to do business at various levels,” said James Regan, the Virginia PTAP director.

The organization has built an enviable record of success since it became a statewide operation in October 2005 after 12 years as a regional center. Its clients had won \$88.7 million in federal contracts as of March 31 and created or retained 5,880 jobs, Regan said.

PTAP centers exist in almost all states. Their client companies won \$13.3 billion in federal contracts and created about 412,000 jobs in 2004, the last year for which Regan has data.

The program has helped fill a void for federal agencies, too, said Scott Denniston, small business director at the Department of Veterans Affairs. “Who’s [available] to teach people about federal contracting and grow these companies?” he asked.

Denniston refers veterans who want to start a tech-oriented business to PTAP. “It’s been a real successful marriage from our standpoint,” he said. VA officials have visited about 35 PTAP centers nationwide in an outreach program for small businesses, federal agencies and contractors in the area, he added.

The typical company that seeks PTAP assistance may have only one or two employees. Or it could be a business that has a fair amount of commercial experience and wants to enter the federal market, Regan said. “The bulk of the companies we deal with are in the services business.”

Regan estimated that about 60 percent of PTAP’s 1,500 active clients in Virginia are involved in management consulting, information technology, communications or support services. Some have been PTAP clients almost since its inception.

Elva Fong, president and chief executive officer of Enterprise Business

Solutions, first sought out the Virginia PTAP about 10 years ago when she wanted to expand her IT management company.

Fong said the PTAP resources and counseling were so helpful that today 90 percent of EBS' contracts come from state and federal clients, including the Defense Information Systems Agency, the Army National Guard and the U.S. Trade and Development Agency.

Most services are free, but PTAP charges small fees for its more costly activities such as seminars.

The Virginia PTAP is funded by DLA, with money and in-kind contributions from George Mason University and the Center for Innovative Technology, a state-financed research and IT marketing facility.

July 31, 2006

VA drops PCHS for SEWP

BY Michael Hardy and David Hubler

After months of pondering the future of the Procurement of Computer Hardware and Software-3 (PCHS-3) contracts, the Department of Veterans Affairs has decided to drop the program when the PCHS-2 contracts expire in April 2007.

The agency plans to use NASA's Scientific and Engineering Workstation Procurement IV contract instead, according to an e-mail message sent July 27 by James Stewart from the VA's Office of Small and Disadvantaged Business Utilization to small businesses owned by service-disabled veterans.

Wayne Simpson, the VA's deputy director for small and disadvantaged business utilization, said that to make the transition smooth, the VA will move some items to SEWP III. NASA plans to award SEWP IV in November.

The VA will not use General Services Administration contracts and will require use of SEWP IV, Simpson said.

Stewart urged businesses to consider bidding on SEWP IV, but the solicitations for that contract are due Aug. 7, giving firms little time to pull a credible bid together. Small firms "have only a certain amount of bandwidth" to go after contracts, said Mike McMahan, president of SDV Solutions, a service-disabled veteran-owned small business. "A lot of this could be easily rectified by not making SEWP IV a mandatory contract," McMahan said. "There are plenty of GSA schedule holders that are veteran-owned and disabled veteran-owned companies that could provide good service, good pricing and good delivery to the VA. We're doing that to all the other federal agencies."

Stewart tried to assure the service-disabled veterans that the agency's move to SEWP did not signal a lack of support for their businesses. If the firms don't get enough orders to meet the VA's goals, "VA will consider an alternative acquisition strategy," he wrote.

Although VA officials are adamant that they won't use GSA contracts, the demise of a governmentwide acquisition contract is good news for GSA, said consultant Phil Kiviat. "Anytime somebody drops out, it's got to be good for GSA," he said. "It just takes competition off the table."

It's also potentially good for companies that would not have won a place on PCHS-3, Kiviat said.

"There were a lot of people who felt that keeping another large [multiple-award contract] going was an unnecessary duplication of effort," said Larry Allen, executive vice president of the Coalition for Government Procurement.

NASA officials declined to comment on the VA's decision. "NASA will meet directed and funded commitments and agreements to the best of our ability, as appropriate," said NASA spokesman Doc Mirelson.

July 31, 2006

How big companies get on SBA's list

By Ethan Butterfield

Acquisitions, certification process clouds picture of small-business contracts.

The Small Business Administration, claiming a major victory for its constituents, recently announced that small companies won \$79.6 billion in federal prime contracts in fiscal 2005.

Former SBA administrator Hector Barreto, in one of his last official acts before stepping down April 25, praised the agency's year-end contract data and said that small businesses won 25.4 percent of the \$314 billion total federal prime contracts awarded in fiscal 2005.

Meeting goals

The federal government has a congressionally mandated goal of awarding 23 percent of federal prime contracts to small companies, and Barreto said that 2005 marked the third straight year it had met that goal.

But Barreto's assertions have come under sharp attack from congressional leaders, as well as SBA's inspector general and the Government Accountability Office.

Critics there have complained repeatedly of problems in how the data is compiled and how the agency oversees federal small-business contracting. One complaint is that companies self-certify as small businesses in a government database that rarely is reviewed for accuracy.

Another is that large government contractors are winning small-business prime contracts.

Research company Eagle Eye Publishers Inc. of Fairfax, Va., in June released its own fiscal 2005 small-business contracting report using data produced by the General Services Administration and the Defense Department. Eagle Eye's report identified \$377 billion in federal prime contracts, \$63 billion more than SBA's report. Of that higher total, Eagle Eye found that small businesses won \$65 billion in prime contracts, just 17 percent of the total, said company president and CEO Paul Murphy.

"Administrator Barreto is either comparing apples to oranges or else he has access to numbers that the general public does not," Murphy said. "They're manipulating the appearance of success."

But neither SBA nor GSA generates the report, said Karen Hontz, SBA associate administrator for government contracting. That job was outsourced in 2003 to Global Computer Enterprises Inc. of Reston, Va. GSA hired Global Computer to run the Federal Procurement Data System-Next Generation, the database that tracks government contracting including small-business contracts.

Hontz said she was comfortable with the accuracy of the data SBA was touting. SBA officials declined to comment on Eagle Eye's report.

When Eagle Eye compiled a list of the top 100 companies that won small-business contracts—for both IT and non-IT work—in fiscal 2005, it found several familiar large-company names. Among the IT contractors on its list was Science Applications International Corp. of San Diego, which ranked third, with more than \$360 million in small-business contracts.

Other large companies included GTSI Corp. of Chantilly, Va., which was fourth with \$291 million in small-business contracts, General Dynamics Corp., which ranked 12th with \$233 million, and Lockheed Martin Corp., which came in at No. 19, with \$175.3 million in small-business awards.

SBA officials declined to provide a list of the top 100 contract winners from its own data.

Asked how General Dynamics, a company with more than \$21 billion in fiscal 2005 revenue and more than 72,000 employees, could make a list of the top small-business award winners, company spokesman Rob Doolittle said the answer lies in the company's recent acquisition history.

"General Dynamics has acquired several small businesses over the last several years that were likely awardees of small-business contracts," Doolittle said. "They can't compete [for new contracts] as small businesses any longer, but the contracts continue to exist as they were awarded."

Hontz also said that large companies appeared on Eagle Eye's list because of their

acquisitions of small companies that held small-business contracts.

It's unlikely that large companies are intentionally masquerading as small businesses, Eagle Eye's Murphy said.

"Deception is a rather small part of the explanation for this problem," he said.

Until late 2004, a large company could acquire a small business and roll it into its own corporate structure without ever changing the acquired company's size status, said Richard Vacura, a partner with law firm Morrison and Foerster LLP of McLean, Va.

"You ended up with what amounts to a large business performing the contract, and the agency still getting credit for a small-business contract," Vacura said.

A new regulation was adopted in December 2004. It requires that any small company that is bought by a larger one and either changes its name or is rolled into the larger company's corporate structure must report the change to the contracting officer overseeing the company's contracts. The company would be allowed to complete the term of the contracts, including option years, but the work would cease to count toward the contracting agency's small-business goals, Vacura said. The rule change, however, did not eliminate all loopholes in the regulations. Acquisitions made before December 2004 are exempt.

And if a larger company buys 100 percent of a smaller company's stock, leaves it as a subsidiary and does not change its name, the small company, even though it would be part of a much larger entity, would continue to be counted as a small business on its contracts, Vacura said. The smaller company would not, however, be allowed to compete for new contracts as a small business.

A fundamental problem remains: SBA's system requires companies to accurately update their own information—at all times, not only when a company is acquired—but it has no oversight of the process. During the course of a year, a company could outgrow its small-business size designations set by the North American Industrial Classification System codes. It would be up to the company to update its information in the Central Contractor Registry, a list of all federal contractors and their NAICS codes.

No oversight

There is no step in the process where a government official ever cross-checks information listed by a company on CCR, SBA's Hontz said. There is just too much activity to allow any oversight, she said. "To have somebody check the thousands of companies coming and going all the time is just not possible," Hontz said. "There are too many companies."

Although Eagle Eye's Murphy didn't have data on IT contracting alone, he said that, despite SBA's contracting foibles, small IT companies are doing well.

“IT tends to be a sector where small businesses perform strongly,” he said. “Agencies are consciously trying to address the small-business market with their own special contract vehicles,” he said. Ironically, such efforts “wouldn’t be necessary if they were just meeting their goals in the first place,” Murphy said.